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Notice of Allowability

Application No.

10/799,414

Examiner

Evelyn A. Lester

Applicant(s)

HOKE ET AL.

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed on 9-23-05.
2. ☒ The allowed claim(s) is/are 1-3,5-7,9-15 and 17-21.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).


* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date attached.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


EVELYN LESTER
PRIMARY EXAMINER

Response to Arguments

1. Applicant's arguments, see pages 6-8, filed 9-23-05, with respect to claims 1-21 (claim 8 having been cancelled) have been fully considered and are persuasive, in light of the amendments filed. The rejections of claims 1-7 and 9-21 have been withdrawn.

2. It should be noted that an interview was conducted between the Examiner and the Applicant's representative, on August 14, 2006 (note attached PTO-413B), wherein new prior art was discussed, with respect to claims 1-3, 6, 7, 10, 12-15 and 18-21. Amendments to claims 1 and 12 were agreed upon to avoid prior art rejections. The pertinent prior art is cited this office action, in paragraph 5.

EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jason Webb (reg.no. 55,714) on August 14, 2006.

The application has been amended as follows:

The claims have been amended as follows:

Claim 1 has been amended to read:

---1. (currently amended) A personal viewing system for enabling a person to view images of the person wearing an accessory, at a store, the system being comprised of:

a digital capturing device for capturing one or more images of the person wearing an accessory, wherein the captured images may be photographs or videos are digital still and/or video images;

a memory device for storing the images in a memory;

a display device for displaying the images, wherein the display is virtually sectioned into a primary and a secondary section for comparing a preferred image to a compare image; and

a command module for reviewing the images;

wherein the memory device automatically displays previously undisplayed images when the person rejects, through the command module, a displayed image.---

Claim 4 was cancelled.

Claim 12 has been amended to read:

---12. (currently amended) A method for enabling a person to view images of the person, at a store, the method comprising the steps of:

capturing one or more images of the person wearing an accessory, wherein the captured image or images may be a photograph or a video are digital still and/or video images;

storing the images in a memory device;
displaying the images on a screen, comprising a step of displaying
one of an undisplayed image stored in the memory device, after one of
the displayed images has been rejected; and
providing a command module to enable the person to review the images.---

Claim 16 is cancelled.

REASONS FOR ALLOWANCE

4. The following is an examiner's statement of reasons for allowance:

The prior art does not show or fairly suggest the claimed invention of a personal viewing system and its method of using, having the claimed structure and claimed limitations, wherein a rejection under 35 USC 102 or 103 would be improper. Please particularly note the combination of claimed elements and claimed limitations, including the amendments made to the two independent claims, claims 1 and 12. The prior art fails to provide the combination of claimed elements and method steps, respectively, including the memory details regarding the automatic displaying of images, as currently amended.

Therefore, in light of the Applicants' arguments and the approved amendments, the claimed invention is considered to be in condition for allowance as being novel and nonobvious over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Prior art of special note, are U.S. Patents directed to imaging and retrieval systems:

Smith	U.S. Patent 4,991,005
Harada et al	U.S. Patent 5,551,021
Hill	U.S. Patent 5,970,471
Hatanaka	U.S. Patent 7,012,636 B2


Other prior art, also directed to imaging and retrieval systems:

Romano et al	U.S. Patent 7,015,957 B2
Giannini et al	U.S. Patent 7,062,454 B1
Aizawa	U.S. Patent 7,075,568 B2
Nakayama et al	U.S. Patent Pub. 2005/0158015 A1
Burns et al	U.S. Patent Pub. 2006/0103729 A1

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Evelyn A. Lester whose telephone number is (571) 272-2332. The examiner can normally be reached on subject to an increased flex schedule, M-F, 10-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky L. Mack can be reached on (571) 272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Evelyn A. Lester
Primary Examiner
Art Unit 2873